



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0114; FRL-9934-52-Region 4]

Approval and Promulgation of Implementation Plans; Georgia;

Removal of Clean Fuel Fleet Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Georgia State Implementation Plan (SIP) that were submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD), on January 22, 2015, for the purpose of moving the Clean Fuel Fleet Program (CFFP) from the active portion of the Georgia SIP to the contingency measures portion of the maintenance plan for the Atlanta Area for the 1997 8-hour ozone national ambient air quality standards (NAAQS). EPA has determined that Georgia's January 22, 2015, SIP revision regarding the CFFP is approvable because it is consistent with the Clean Air Act (CAA or Act).

DATES: This rule will be effective [insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0114. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch (formerly Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Sheckler's phone number is (404) 562-9222. She can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 22, 2015, GA EPD submitted a SIP revision to EPA with a request to move Georgia's CFFP rules (Georgia Rules 391-3-22-.01 through .11)¹ from the active portion of the Georgia SIP to the contingency measures portion of the ozone maintenance plan for the Atlanta Area for the 1997 8-hour ozone NAAQS.² EPA incorporated this maintenance plan into the SIP in a final action published on December 2, 2013. *See* 78 FR 72040.

¹ The CFFP is addressed in Title II, part C of the CAA. *See* CAA sections 241-250. Congress added Part C, entitled "Clean Fuel Vehicles," to the CAA to establish two programs: a clean-fuel vehicle pilot program in the State of California (the California Pilot Test Program), and a CFFP in certain ozone and carbon monoxide nonattainment areas. Under section 246 of the CAA, certain states were required to adopt and submit to EPA a SIP revision containing a CFFP for ozone nonattainment areas with a 1980 population greater than 250,000 that were classified as serious, severe, or extreme. On May 2, 1994, the State of Georgia submitted a SIP revision to address the CFFP requirements for the Atlanta 1-Hour Ozone Area. EPA approved that SIP revision, containing Georgia's CFFP rules, in a notice published on May 2, 1994. *See* 60 FR 66149.

² On April 30, 2004, EPA designated the following 20 counties in and around metropolitan Atlanta as a marginal nonattainment area for the 1997 8-hour ozone NAAQS (referred to as the "Atlanta 1997 8-Hour Ozone Area"): Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton. *See* 69 FR 23858. EPA reclassified this same area as a moderate nonattainment area on March 6, 2008, because the Area failed to attain the 1997 8-hour ozone NAAQS by the required attainment date of June 15, 2007. *See* 73 FR 12013. Subsequently, the area attained the 1997 8-hour ozone standard, and on December 2, 2013, EPA redesignated the area to attainment for the 1997 8-hour ozone NAAQS and approved the associated maintenance plan into the SIP. *See* 78 FR 72040.

On July 24, 2015, EPA published a proposed rulemaking to approve Georgia's January 22, 2015, SIP revision related to the CFFP based, in part, on EPA's preliminary finding that the SIP revision satisfies the anti-backsliding requirements of EPA's ozone implementation rules and the CAA section 110(l) requirements. The details of Georgia's submittal and the rationale for EPA's action are explained in that notice of proposed rulemaking. *See* 80 FR 44014. The comment period for the proposed rulemaking closed on August 24, 2015. EPA did not receive any comments, adverse or otherwise, during the public comment period.

II. Final Action

EPA is taking final action to approve the SIP revision submitted by Georgia on January 22, 2015, to move Georgia's CFFP rules (Georgia Rules 391-3-22-.01 through .11) from the active portion of Georgia SIP to the contingency measures portion of Georgia's maintenance plan in the SIP for the 1997 Atlanta 8-hour ozone area. EPA has determined that Georgia's January 22, 2015, SIP revision related to the State's CFFP is consistent with the CAA and EPA's regulations and guidance.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone,
Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 10, 2015.

Heather McTeer Toney,

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L - Georgia

2. Section 52.570(c) is amended by revising the entry for “391-3-22” to read as follows:

§52.570 Identification of plan.

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(c) * * *

EPA Approved Georgia Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
391-3-22	Clean Fueled Fleets	5/11/14	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	Clean Fueled Fleets rules moved to the contingency measures portion of the SIP-approved 1997 8-hour ozone Maintenance Plan for the Atlanta Area

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[FR Doc. 2015-24094 Filed: 9/23/2015 08:45 am; Publication Date: 9/24/2015]